

EXHIBIT A

<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS IN RE: NEURONTIN MARKETING, SALES)CASE NO. PRACTICES AND PRODUCTS LIABILITY)04-10981 LITIGATION))) THIS DOCUMENT RELATES TO:)) RUTH SMITH, Individually and as)05-CV-11515 Widow for the use and benefit of) herself and the next of kin of) Richard Smith, deceased.) _____) VIDEOTAPED DEPOSITION OF: GARY WAYNE BIGGS, SR. Taken on behalf of the Defendant February 8, 2008 _____</p>	<p>3</p> <p>1 INDEX 2 WITNESS: GARY WAYNE BIGGS, SR. 3 INDEX OF EXAMINATIONS 4 5 Page/Line 6 Examination by Mr. Evans 06 04 7 Examination by Mr. Soh 59 11 8 Examination by Mr. Evans 73 05 9 Certificate 75 01 10 Errata Sheet 76 01 11 12 INDEX OF EXHIBITS 13 14 No. 1 15 17 15 No. 2 17 06 16 No. 3 29 07 17 No. 4 46 17 18 No. 5 46 17 19 No. 6 51 08 20 No. 7 64 05 21 22 23 24 25</p>
<p>2</p> <p>1 APPEARANCES: 2 3 For the Plaintiff: 4 KENNETH S. SOH, ESQUIRE 5 Lanier Law Firm 6 6810 F.M. 1960 West 7 Houston, Texas 77069 8 (713) 659-5200 9 (713) 659-2204 10 kss@lanierlawfirm.com 11 12 For the Defendant: 13 CEDRIC E. EVANS 14 Clark, Thomas & Winters 15 P.O. Box 1148 16 300 West 6th Street, 15th Floor 17 Austin, Texas 78701 18 (512) 472-8800 19 (512) 474-1129 20 cce@ctw.com 21 22 Also Present: Amanda Martin, Videographer 23 24 25</p>	<p>4</p> <p>1 The videotaped deposition of GARY WAYNE 2 BIGGS, SR., taken on behalf of the Defendant, 3 on the 8th day of February, 2008, in the 4 offices of Medical Forensics, 850 R.S. Gass 5 Boulevard, Nashville, Tennessee, 37216, for all 6 purposes under the Federal Rules of Civil 7 Procedure. 8 The formalities as to notice, caption, 9 certificate, et cetera, are waived. All 10 objections, except as to the form of the 11 questions, are reserved to the hearing. 12 It is agreed that Deborah J. Harris, being 13 a Notary Public and Court Reporter for the 14 State of Tennessee, may swear the witness, and 15 that the reading and signing of the completed 16 deposition by the witness are reserved. 17 18 19 20 * * * 21 22 23 24 25</p>

<p>9</p> <p>1 question -- let you get an answer out before we 2 start asking you a new question.</p> <p>3 Also, sometimes questions aren't as clear 4 when they come out of at least my mouth as I 5 think it's going to be or as I think it is.</p> <p>6 If you could just let me know if a 7 question isn't clear and I'll do my best to 8 restate it in a way that's more understandable.</p> <p>9 Oh, at some -- there may be times when 10 either -- while I'm asking you questions 11 Mr. Soh may do this or when he's asking you 12 questions I may do this, but one of us will 13 make an objection.</p> <p>14 Most likely it'll be something like 15 objection to form. That is an objection that 16 we've making for the record. You can let the 17 objection get out. And unless one of us says 18 don't answer the question for some reason, you 19 can go ahead and answer the question. All 20 right?</p> <p>21 A Yes, sir.</p> <p>22 Q Okay. Good deal.</p> <p>23 A Oh, and I think it was a deposition. 24 The best I remember. It was a long time ago.</p> <p>25 Q Okay. Mr. Biggs, what is your</p>	<p>11</p> <p>1 right before the deposition, but the 2 relationship between Forensic Medical and the 3 Medical Examiner's Office for this county or 4 for the state.</p> <p>5 A All right. In 1997 they privatized 6 the operation of the Medical Examiner's Office. 7 Forensic Medical was the company that was given 8 the contract in '97 to function as the medical 9 examiner.</p> <p>10 Dr. Bruce Levy was appointed chief medical 11 examiner of Davidson County and then later 12 appointed the state medical examiner also.</p> <p>13 Q Okay. Sir, now, are you guys then 14 responsible for death investigation just in the 15 county or for the entire state?</p> <p>16 A As of this date, we do in-county 17 deaths. We respond to the scenes if necessary. 18 Out of county, we'll take the death calls over 19 the phone but we do not normally respond to 20 those scenes. We'll just take that on the 21 phone and bring them here. We do more of an 22 autopsy service for those counties.</p> <p>23 Q How long have you been with Forensic 24 Medical?</p> <p>25 A Since inception, ten years ago.</p>
<p>10</p> <p>1 current occupation?</p> <p>2 A I'm an investigator for the Medical 3 Examiner's Office, Forensic Medical.</p> <p>4 Q And you say you're an investigator. 5 What is your exact job title?</p> <p>6 A We take the initial reports of death, 7 decide whether to --</p> <p>8 Q Oh, no. Actually, I didn't mean to 9 cut you off. But what is your job title, and 10 then we'll get into your job description?</p> <p>11 A Oh, my job title?</p> <p>12 Q Yes.</p> <p>13 A I'm sorry.</p> <p>14 Q That's okay.</p> <p>15 A Medical/legal death investigator.</p> <p>16 Q Okay. And you indicated that you 17 work for Forensic Medical?</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. Now, can you -- and is 20 Forensic Medical -- is that a -- is it a 21 private company?</p> <p>22 A Yes, sir.</p> <p>23 Q Okay. Can you explain the 24 relationship between -- and maybe, obviously, 25 this is something I think we touched on briefly</p>	<p>12</p> <p>1 Q So since 1997, is that --</p> <p>2 A Yes.</p> <p>3 Q Okay. And has your -- your job title 4 always been the same?</p> <p>5 A When I was hired in '94, it was still 6 medical/legal death investigator, yeah.</p> <p>7 Q Now, you started to answer this for 8 me earlier.</p> <p>9 But what is your job description as a 10 medical/legal death investigator?</p> <p>11 A We take the initial death call. We 12 determine if it falls under the jurisdiction of 13 the Medical Examiner's Office. If the death 14 occurs outside of a hospital, except on 15 infants -- on infants, if they die in the ER, 16 we will respond to the ER. But any other ones 17 we won't respond to hospital.</p> <p>18 If they die at a residence or wherever, 19 outside the hospital settings, we will respond 20 if it call -- if the need arises that we do 21 need to respond. And we will do a death 22 investigation at the scene. Transport the 23 decedent here to the office and the medical 24 examiner will determine whether to do an 25 autopsy or not.</p>

<p>17</p> <p>1 MR. EVANS: Wait a minute. Let's do 2 this. You're actually looking now -- let 3 me go ahead and let me do this right here. 4 Let me mark a copy of these notes as 5 deposition Exhibit No. 2. 6 (EXHIBIT NO. 2 WAS MARKED FOR 7 IDENTIFICATION.) 8 BY MR. EVANS: 9 Q Okay. Can you -- let's do this then. 10 Can you walk us through kind of what we're 11 looking at when we look at the notes from the 12 top going down? 13 A Sure. At the very top -- I guess it 14 would be the corner. 15 Q The top right corner? 16 A Yeah, there you go. 17 Q Okay. 18 A It says 8628510, dash 8510. That's 19 dispatch's number. And they could page me at 20 5:53 that morning. Over here it says 04-1575. 21 I assigned it a case number. 22 Q Okay. So you assign the case number? 23 Yes? 24 A Yes. 25 Q Okay.</p>	<p>19</p> <p>1 it's clear that in terms of the things that are 2 in red, it's the dispatch phone number and 3 time. You also have -- 4 A Location. 5 Q -- the 1443 Janie Avenue also in red? 6 A And the officer at the scene. 7 Q Okay. And that is -- 8 A Well, no. It's off of Murray and 9 McGavock Pike. 10 Q Okay. So those are the cross streets 11 for the address? 12 A Yes, sir. 13 Q Okay. And everything else -- so 14 those are notes that you made when you got the 15 call. Everything else that is in black are 16 notes that you would have made at the scene? 17 A At the scene. 18 Q Okay. 19 A Or when I got back. 20 Q Or when you got back. Are you able 21 to distinguish between the notes that you made 22 at the scene and the notes you made when you 23 got back? 24 A Pretty much I can tell by my writing 25 most of my notes were done at the scene. The</p>
<p>18</p> <p>1 A Sorry. 2 Q That's all right. 3 A Of course the decedent's name, his 4 age. 5 Q Okay. 6 A I didn't write his race and sex. I 7 normally write that down. I didn't write that 8 down. 9 Q Tell me something. Just the -- 10 the -- the name and the age -- and is that the 11 date of birth, that 1/4? 12 A Yes. 13 Q Was it 1/4/20 -- 14 A 25. 15 Q 25. Is that information that you got 16 before you arrived at the scene or is that 17 information you got at the scene? 18 A Since ya'll have copies, you can't 19 see the difference in color. When I took the 20 initial call, it was in red. And then I had a 21 black pen. So that's when I got out to the 22 scene I had a different pen. 23 Q Okay. 24 A So you can see my initial notes. 25 Q Well, let's just for the record, so</p>	<p>20</p> <p>1 case number, since it's in blue, it was 2 probably when I got back. 3 Q Okay. You can keep working. 4 A All right. So we've got the 5 decedent's name, Richard H. Smith. He was at 6 1443 Janie Avenue in Inglewood, 37216 Zip code. 7 The Complaint No. 04-240830, that's the Metro 8 Police complaint number. And if you look about 9 midway down the page on the left-hand side. 10 Q Right. 11 A It says, 0545 -- 12 Q Yes. 13 A -- MPD. That's what time they got 14 the call. 15 Q And is that information -- who do you 16 get that information from? 17 A Either dispatch or the detective on 18 the scene. 19 Q Okay. 20 A And back to the top of the page on 21 the left-hand side, you see 738, 1098 below it? 22 That's the code for leaving the scene. So 23 that's the time I left that scene, 738. 24 Q Okay. 25 A Below that says 640, 1097. That's</p>

<p>21</p> <p>1 the code that I arrived at the scene. That's</p> <p>2 what time I got there.</p> <p>3 Q Okay. So you were at the scene for</p> <p>4 about an hour?</p> <p>5 A Yes, sir. And then, like you already</p> <p>6 distinguished, it was off Murray and McGavock</p> <p>7 Pike.</p> <p>8 Q All right. And then we have after --</p> <p>9 kind of underneath that, under the -- the --</p> <p>10 the, um, -- kind of the cross streets. You've</p> <p>11 got some notes here. One year ago hip/knee</p> <p>12 replacement. Talked in March of suicide. Can</p> <p>13 you -- and there's some other notes here. I'm</p> <p>14 not trying to just focus on those. But reading</p> <p>15 down, there's some other notes.</p> <p>16 Can you tell me where -- from what source</p> <p>17 you would have obtained this information?</p> <p>18 A Initially from I believe Danny</p> <p>19 Satterfield was out there. The</p> <p>20 officers/detectives on the scene.</p> <p>21 And then I would have, more than likely --</p> <p>22 which I did talk to the wife in the living room</p> <p>23 with the daughter present. I would have</p> <p>24 confirmed that they did talk.</p> <p>25 I would have made it quick because that</p>	<p>23</p> <p>1 A Yes.</p> <p>2 Q Okay.</p> <p>3 A I talked to her at 7:35 a.m. That's</p> <p>4 on our order for autopsy. Should be in the</p> <p>5 file. And I explained that we, you know -- we</p> <p>6 have to do an autopsy since the type of death</p> <p>7 he experienced.</p> <p>8 And more than likely, because I know how I</p> <p>9 operate, I would have asked about the suicide</p> <p>10 talk in the past or the attempts in the past,</p> <p>11 to confirm that. And, basically, confirm the</p> <p>12 story or just maybe ask little, quick</p> <p>13 questions, because she was devastated. And the</p> <p>14 daughter was there more of a protective kind of</p> <p>15 role, which that's understandable.</p> <p>16 And I asked everybody else to stay in the</p> <p>17 kitchen. And I pulled her off to the living</p> <p>18 room.</p> <p>19 Q Okay. You pulled her and Cindy Smith</p> <p>20 off to the living room --</p> <p>21 A Yeah.</p> <p>22 Q -- when you spoke to them?</p> <p>23 A Yes. You come in the front door.</p> <p>24 And to the right was a living room area, and</p> <p>25 then the kitchen was back that way. So</p>
<p>22</p> <p>1 scene was -- the family was having a hard time</p> <p>2 with it.</p> <p>3 Q Okay. Now, you said you did talk to</p> <p>4 the wife, Ruth Brown Smith?</p> <p>5 A Yes, sir.</p> <p>6 Q Okay. And you said the daughter was</p> <p>7 present?</p> <p>8 A Yes, sir.</p> <p>9 Q And which daughter was that?</p> <p>10 A Cindy Smith.</p> <p>11 Q Okay. And just to I guess sort of</p> <p>12 figure out whether or not because there is, you</p> <p>13 know, probably, you know, ten or 11 items of</p> <p>14 information that's here in kind of this middle</p> <p>15 set of notes, just are you able to say, okay,</p> <p>16 well, this item of information is information I</p> <p>17 got directly from Ruth Brown Smith and Cindy</p> <p>18 Smith and this other information is information</p> <p>19 I got from talking to Detective Satterfield or</p> <p>20 one of the other officers on the scene?</p> <p>21 A No.</p> <p>22 Q Okay. All right. And do you have</p> <p>23 any specific recollection of the substance of</p> <p>24 your conversation with Ruth Brown Smith and her</p> <p>25 daughter Cindy Smith?</p>	<p>24</p> <p>1 everybody -- I just asked to talk to them</p> <p>2 alone.</p> <p>3 Q And so you would have -- you would</p> <p>4 have -- that's part of your normal working</p> <p>5 protocol; one of the things you would have</p> <p>6 confirmed was the talk of -- previous talk of</p> <p>7 suicide?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. And in terms of -- were you --</p> <p>10 was there any information that you can recall</p> <p>11 that came from Cindy Smith versus Ruth Smith?</p> <p>12 A No, sir.</p> <p>13 Q All right. And in terms of your</p> <p>14 confirming the information contained in your</p> <p>15 notes here, if you had gotten a response that</p> <p>16 the information that you had -- that you had,</p> <p>17 you know, regarding the previous talk of</p> <p>18 suicide or some of the other information was</p> <p>19 incorrect, is that something you would have</p> <p>20 noted in your written --</p> <p>21 A Yeah. I would have changed my note.</p> <p>22 Q Okay. All right. And -- okay. And</p> <p>23 you said it was at seven -- 7:35 when you spoke</p> <p>24 to -- to Ruth Smith and her daughter?</p> <p>25 A Yes.</p>

<p>25</p> <p>1 Q Okay. One of the things you talked</p> <p>2 to them about was the -- was the autopsy one of</p> <p>3 the things you talked to them about, as well?</p> <p>4 A Yes.</p> <p>5 Q What were their thoughts about an</p> <p>6 autopsy?</p> <p>7 A They were strongly opposed.</p> <p>8 Q Okay.</p> <p>9 A And I documented that in my senior</p> <p>10 investigator report.</p> <p>11 Q And we're going to -- we'll go</p> <p>12 through those in a second. Um --</p> <p>13 A And it's on the side of my notes.</p> <p>14 Q Right. Yeah. I think you noted here</p> <p>15 on the left-hand margin, opposed to autopsy.</p> <p>16 In terms of the normal protocol for a --</p> <p>17 the investigation of a death like Mr. Smith's</p> <p>18 death, a gunshot wound to the head, is it a</p> <p>19 normal part of the protocol to request an</p> <p>20 autopsy?</p> <p>21 A Repeat your question.</p> <p>22 Q I'm sorry. Yeah. I'm just trying to</p> <p>23 figure out, is it standard protocol for the</p> <p>24 Medical Examiner's Office to do an autopsy in a</p> <p>25 case like this?</p>	<p>27</p> <p>1 A But I was quick with it.</p> <p>2 Q Okay.</p> <p>3 A Normally, when they're upset, I just</p> <p>4 get what I need to do really quickly and let</p> <p>5 them ask me any questions before I leave and</p> <p>6 then I leave.</p> <p>7 Q Do you recall any questions that Ruth</p> <p>8 Smith asked of you?</p> <p>9 A No.</p> <p>10 Q Okay. All right. And you said that</p> <p>11 Cindy Smith was there in more of in a</p> <p>12 protective role?</p> <p>13 A Yeah.</p> <p>14 Q Okay. Was she -- to the extent that</p> <p>15 you directed questions toward her, was she able</p> <p>16 to answer the questions that you were asking of</p> <p>17 her?</p> <p>18 MR. SOH: Objection to form.</p> <p>19 MR. EVANS: You can answer.</p> <p>20 MR. SOH: Go ahead. Vague.</p> <p>21 MR. EVANS: Yeah, you can answer.</p> <p>22 THE WITNESS: Now, what was your</p> <p>23 question?</p> <p>24 MR. EVANS: Yeah. No --</p> <p>25 MR. SOH: Yeah, that's what usually</p>
<p>26</p> <p>1 A Yes, sir.</p> <p>2 Q Okay. Why?</p> <p>3 A Because they have a projectile still</p> <p>4 in their body. So you have to remove the</p> <p>5 projectile. And that's -- basically, several</p> <p>6 reasons.</p> <p>7 But the main one is what about if it came</p> <p>8 back later and it was a homicide? So then you</p> <p>9 would have to bury somebody and have to exhume</p> <p>10 them to get the projectile out.</p> <p>11 Q Okay.</p> <p>12 A But Dr. Li can go into more about it.</p> <p>13 Q Yeah. No. We -- yeah. We're going</p> <p>14 to talk to him in a bit. Let me ask you this:</p> <p>15 Obviously, given what happened earlier, that,</p> <p>16 you know, Mrs. Smith, Ruth Smith, was upset?</p> <p>17 A (Nods head.)</p> <p>18 Q Correct?</p> <p>19 A Yes, sir.</p> <p>20 Q Okay. Was she able to talk to you</p> <p>21 and give you the answers that you were trying</p> <p>22 to -- the answers to the questions that you</p> <p>23 were asking of her?</p> <p>24 A Yes.</p> <p>25 Q Okay.</p>	<p>28</p> <p>1 happens.</p> <p>2 BY MR. EVANS:</p> <p>3 Q It's just to the extent that you</p> <p>4 asked questions of Cindy Smith -- and do you</p> <p>5 recall asking any questions of Cindy Smith?</p> <p>6 A I don't recall asking Cindy Smith.</p> <p>7 Q Okay. All right.</p> <p>8 A I directed my questions to the wife.</p> <p>9 Q Okay. All right.</p> <p>10 MR. SOH: Over my objection. Thank</p> <p>11 you, sir.</p> <p>12 THE WITNESS: And the only -- and the</p> <p>13 reason why is because I was trying to make</p> <p>14 it quick. And I said, she came in there</p> <p>15 more of a protective role. And that</p> <p>16 happens. There are some times when the --</p> <p>17 the decedent's family members are</p> <p>18 distraught and then other family members</p> <p>19 will step up and that's fine.</p> <p>20 I just wanted to make it quick and help</p> <p>21 them get their grieving process started.</p> <p>22 MR. EVANS: Okay. Okay. So we're</p> <p>23 going to put this -- right. And then I --</p> <p>24 oh, let me just while we're -- since I</p> <p>25 have this, I'm going to go ahead and mark</p>

<p style="text-align: right;">29</p> <p>1 this.</p> <p>2 You brought your fee schedule with you,</p> <p>3 the charge. And it says, Gary W. Biggs, Sr.,</p> <p>4 Medical Investigator, and a charge schedule for</p> <p>5 a private consultation. I'm going to mark this</p> <p>6 as deposition Exhibit No. 3.</p> <p>7 (EXHIBIT NO. 3 WAS MARKED FOR</p> <p>8 IDENTIFICATION.)</p> <p>9 BY MR. EVANS:</p> <p>10 Q And just to be clear, you are being</p> <p>11 compensated today for your time in this</p> <p>12 deposition, correct?</p> <p>13 A Yes, sir.</p> <p>14 Q Okay. And the going rate for your</p> <p>15 time giving a deposition is -- is \$250 an hour,</p> <p>16 plus any travel expenses if you have to travel</p> <p>17 somewhere for the deposition, correct?</p> <p>18 A Yes, sir.</p> <p>19 Q And you set your minimum a two-hour</p> <p>20 minimum?</p> <p>21 A Yes, sir.</p> <p>22 Q Okay. So, essentially, if the --</p> <p>23 even if the deposition went one hour, your fee</p> <p>24 would be \$500?</p> <p>25 A Yes, sir.</p>	<p style="text-align: right;">31</p> <p>1 at 0640, so that's 6:00 -- I'm sorry.</p> <p>2 6:40 a.m., correct?</p> <p>3 A Yes, sir.</p> <p>4 Q Okay. What was your role in the</p> <p>5 investigative process at the Smith home?</p> <p>6 A My role is twofold. It is to look at</p> <p>7 the victim. I can say victim, right?</p> <p>8 Q Sure.</p> <p>9 A Because I got in trouble for it</p> <p>10 before. To look at the decedent and do a body</p> <p>11 examination, document the scene with</p> <p>12 photography, correlate the decedent to the</p> <p>13 scene, and if anything appears different from</p> <p>14 what we're looking at -- we start off as</p> <p>15 everything is a homicide, and you go from</p> <p>16 there.</p> <p>17 This was very consistent with a suicide</p> <p>18 and we -- do you want me to go on and tell what</p> <p>19 I saw at the scene?</p> <p>20 Q No, no. We'll talk about that in a</p> <p>21 second.</p> <p>22 A Okay. So, anyway, document the</p> <p>23 scene. Do a body exam. Prepare the decedent</p> <p>24 for transport. Make sure transport arrives in</p> <p>25 a timely manner and have him released from the</p>
<p style="text-align: right;">30</p> <p>1 Q Okay. All right. And you also -- on</p> <p>2 this fee schedule there's some charges for</p> <p>3 court testimony, as well.</p> <p>4 And just to be clear, we have agreed --</p> <p>5 Pfizer has agreed to compensate you for --</p> <p>6 according to your fee schedule for your time</p> <p>7 today, correct?</p> <p>8 A Yes, sir.</p> <p>9 MR. SOH: If they stiff you, sir,</p> <p>10 we'll be glad to send you -- we'll be glad</p> <p>11 to compensate you, as well.</p> <p>12 MR. EVANS: Thanks for that. I have</p> <p>13 the check with me. But, nice, appreciate</p> <p>14 that.</p> <p>15 MR. SOH: Do you want to hand it to</p> <p>16 him on the video, Cedric?</p> <p>17 MR. EVANS: No, no, no. No, no, no.</p> <p>18 No, no, no. Ever.</p> <p>19 MR. SOH: (Inaudible.) -- am I</p> <p>20 correct? (Inaudible.)</p> <p>21 BY MR. EVANS:</p> <p>22 Q Can you -- can you -- and you've</p> <p>23 talked some about this, just in terms of your</p> <p>24 role.</p> <p>25 So you said you arrived at the Smith home</p>	<p style="text-align: right;">32</p> <p>1 scene. And --</p> <p>2 Q And when you say --</p> <p>3 A -- and --</p> <p>4 COURT REPORTER: I'm sorry. Released</p> <p>5 from the scene?</p> <p>6 THE WITNESS: Yes, ma'am. And talk</p> <p>7 to the families if they're on the scene</p> <p>8 and explain our procedures, protocols,</p> <p>9 that we have to do.</p> <p>10 Q And you said document the scene.</p> <p>11 What does document the scene entail?</p> <p>12 A We take notes. We take photographs.</p> <p>13 And then we come back and we type up the scene</p> <p>14 description and the report.</p> <p>15 Q Would your focus -- I mean, beyond</p> <p>16 the conversation that you had with Ruth Smith</p> <p>17 and Cindy Smith, have been on -- and we talked</p> <p>18 about the scene. Obviously, the entire home</p> <p>19 was a scene.</p> <p>20 But in particular in the Smith home that</p> <p>21 day, was there a -- was there an area of the</p> <p>22 home that was the focus of the investigation?</p> <p>23 A Yes, sir.</p> <p>24 Q And what area was that?</p> <p>25 A When you come in the door, the best I</p>

<p>49</p> <p>1 other whether or not there was a collection 2 made of the medications, the cyclobenzaprine, 3 the Hydrocodone, and Neurontin at the Smith 4 home? 5 A Did I collect them? 6 Q Yes. 7 A Yes. 8 Q You did? Okay. 9 A As best I remember. 10 Q Okay. And why -- do you have a 11 specific recollection of collecting the pill 12 bottles? 13 A As best I remember, I collected them. 14 Q Okay. All right. And then what 15 happens to the pill bottles once they're 16 collected? 17 A You transport them back here. We 18 usually use two forms, a medication log, which 19 basically logs the medication that was there. 20 And we have a medication list, which we put the 21 type of drug, when it was prescribed, how many 22 were left, who prescribed it, such like that. 23 Q Okay. 24 A So I probably didn't do that. And 25 the reason is because I couldn't find it,</p>	<p>51</p> <p>1 MR. EVANS: I'm going to mark as 2 Exhibit No. 6 photograph 5. It's the same 3 one. 4 THE WITNESS: Here. You can see it 5 better. 6 MR. SOH: That's all right. I have 7 seen it. 8 (EXHIBIT NO. 6 WAS MARKED FOR 9 IDENTIFICATION.) 10 BY MR. EVANS: 11 Q Does what I have marked as deposition 12 Exhibit No. 5, which is scene photograph number 13 005, does that appear to be the suicide note 14 that you reference in your report? 15 A Yes, sir. 16 BY MR. EVANS: 17 Q And you note here in this, also after 18 kind of you -- you -- you recite what the note 19 says. You said the victim reportedly had a 20 history of hip and knee replacement surgery. 21 The victim was reportedly in chronic pain 22 and the victim reportedly discussed thoughts of 23 suicide in March of 2004. 24 Are you able to tell me specifically where 25 that information came from?</p>
<p>50</p> <p>1 because I noted it in my -- and I didn't think 2 since they looked in therapeutic range that it 3 was related to the death. 4 Q Okay. All right. And you said that 5 you -- you said you didn't do it because you 6 noted it where? 7 A In my senior investigation form. 8 Q Okay. And then what was the second 9 thing you said about there appeared to be 10 therapeutic range? 11 A Yeah. There was pills in there. If 12 he had overdosed, he more than likely would 13 have took them all and not used what he did. 14 Q Okay. Because your concern with the 15 medication at that time would have been whether 16 or not they were medications that were used to 17 facilitate the suicide? 18 A Yes. And, plus, you don't leave the 19 narcotics on the scene. 20 Q Okay. You also, in addition to that 21 note, you note that there is a -- that there 22 was a suicide note. 23 You note that in your scene report, 24 correct? 25 A Oh, yes, sir.</p>	<p>52</p> <p>1 A More than likely -- well, definitely, 2 the officers and detectives on the scene. Then 3 when I talked to the wife, I would have either 4 confirmed or denied it real quick. Like I 5 said, she was really distraught. So I might 6 have just rushed real -- 7 Q Okay. Okay. The last -- is there 8 something else I wanted to talk to you about? 9 Oh, yeah. The statement of opposition to 10 autopsy. 11 A Is there one in the file? 12 Q There is one in the file. Give me -- 13 here it is. It's page 18 of deposition Exhibit 14 No. 1. And if you can't find it, I've got a 15 copy of it. And, actually -- 16 A To save time, we'll look at this one. 17 Q Who created this document; do you 18 know? 19 A It's a blank document except for the 20 wording and that's from us. And I believe 21 David Crowder had them put the opposition for 22 autopsy. 23 Q Okay. All right. 24 A Because he signed it at the bottom. 25 And that's --</p>

<p>57</p> <p>1 as opposed to a homicide or an accidental 2 death.</p> <p>3 Q Okay. And in terms of your -- your 4 opinions on the why of Mr. Smith's suicide, 5 what does your -- what did your investigation 6 reveal to you in terms of why you believe he 7 committed suicide?</p> <p>8 A He just got tired. He got tired of 9 hurting.</p> <p>10 Q Okay. And what is it that tells you 11 that?</p> <p>12 A His note. He has medication that 13 shows that he's being treated for pain. And 14 just from the -- they said that he had it in 15 the past. But from the scene, he's laid 16 everything out and -- let's see. I think -- if 17 you'll give me a moment?</p> <p>18 Q Oh, sure thing.</p> <p>19 A A lot of times on suicides they'll 20 lay all their personal effects out and stuff, 21 on the dresser, as you see in the pictures.</p> <p>22 Q Let's figure out which photograph you 23 have there. That's one we already marked. I 24 think what you're showing here is Exhibit 25 No. 5.</p>	<p>59</p> <p>1 themselves, they would have fought. There 2 would have been signs of a struggle.</p> <p>3 Q Okay. All right. That's what tells 4 you it's suicide?</p> <p>5 A That and everything else at the 6 scene.</p> <p>7 MR. EVANS: All right. Okay. I 8 think that those are probably all the 9 questions I have for you for right now. 10 I'll pass the witness.</p> <p>11 EXAMINATION</p> <p>12 BY MR. SOH:</p> <p>13 Q Do I call you Investigator Biggs, 14 Detective; what should I call you?</p> <p>15 A Call me Gary.</p> <p>16 Q Mr. Biggs, let me just go through a 17 couple of issues with you here. You expressed 18 your opinion that Mr. Smith committed suicide 19 because of the pain, correct?</p> <p>20 A Yes, sir.</p> <p>21 Q Okay. But that's not a formal -- is 22 that a -- would you consider that a formal 23 opinion from the Medical Examiner's Office?</p> <p>24 A That would be up to the medical 25 examiner to say that.</p>
<p>58</p> <p>1 A And if you'll see in the background, 2 he's marked the circle around pain.</p> <p>3 Q Okay. Can you -- what are you -- oh, 4 you're looking at -- okay. I see.</p> <p>5 Just for the record, you're referring 6 to -- there is a -- is that the pamphlet that's 7 toward the back?</p> <p>8 A The pamphlet next to the mirror --</p> <p>9 Q Okay.</p> <p>10 A -- says pain. He circled it. He has 11 a written note. He talked to his wife. He got 12 tired of hurting. That's an opinion, though.</p> <p>13 Q Of course. I understand that. But 14 that's your opinion based upon your experience 15 as a -- as a forensic investigator?</p> <p>16 A That and the wound.</p> <p>17 Q And the what?</p> <p>18 A The wound.</p> <p>19 Q The wound?</p> <p>20 A Yes, sir.</p> <p>21 Q What about the wound tells you that?</p> <p>22 A He's got a contact GSW at the right 23 temple region. That means he put the gun to 24 his head. He would have fought -- anybody 25 would have fought. If they didn't do it</p>	<p>60</p> <p>1 Q Okay. But it's your personal --</p> <p>2 A It's my personal.</p> <p>3 Q That's your personal opinion. All 4 right. Let me ask you this: And I know that 5 you probably -- your friends and family think 6 that what you do is a lot like CSI, but it 7 really isn't what it's like at CSI, correct?</p> <p>8 A No. They have all the good stuff.</p> <p>9 Q I mean, but, for example, if there 10 was a drug that caused suicides, you would not 11 go back and review like medical literature 12 showing an increased risk of suicide and make a 13 determination if that drug caused a role in the 14 suicide, would you?</p> <p>15 A Not unless my medical examiner, 16 Dr. Bruce Levy, tells me to do so.</p> <p>17 Q Okay. Have you ever done that in 18 your years as an investigator for the Medical 19 Examiner's Office?</p> <p>20 A No, sir. We turn that over to 21 Consumer Affairs Product or whatever.</p> <p>22 Q Like you wouldn't review, let's say, 23 an FDA warning about -- that a drug would 24 double the risk of suicide; you wouldn't review 25 that as part of your investigation, would you?</p>

<p>61</p> <p>1 MR. EVANS: Object to the form.</p> <p>2 A We knew about it, like the Vioxx or</p> <p>3 whatever, we could like of look forward to that</p> <p>4 when that came out.</p> <p>5 BY MR. SOH:</p> <p>6 Q Okay. Oh, okay. You mentioned</p> <p>7 Vioxx. Let's give you an example.</p> <p>8 So you're saying that if someone died of a</p> <p>9 heart attack while taking Vioxx, you would</p> <p>10 investigate whether or not Vioxx might have</p> <p>11 caused that heart attack?</p> <p>12 A If we found Vioxx, we would bring it</p> <p>13 back in and document it.</p> <p>14 Q Okay. But you didn't do that in this</p> <p>15 case with the Smith Family and the Neurontin?</p> <p>16 A We did bring -- I did document the</p> <p>17 drug.</p> <p>18 Q That he was on Neurontin. But you</p> <p>19 didn't go and document any kind of scientific</p> <p>20 literature or anything like that to maybe show</p> <p>21 a link between Neurontin and suicide?</p> <p>22 A No, sir.</p> <p>23 Q Okay. Let me ask you. I got a</p> <p>24 little confused about your answers, and I just</p> <p>25 want to maybe try and make it clearer, okay?</p>	<p>63</p> <p>1 Q All right. Do you have any personal</p> <p>2 knowledge of taking possession of the</p> <p>3 prescription medication that day?</p> <p>4 A The best I remember I took it.</p> <p>5 Q Okay. But there's no documentation</p> <p>6 and there's no --</p> <p>7 A Four years ago.</p> <p>8 Q What would happen to that medication?</p> <p>9 Would it be released back to the family or</p> <p>10 would it be disposed of?</p> <p>11 A We dispose of it here.</p> <p>12 Q Okay. But best of your recollection,</p> <p>13 you took it but there's no other documentation;</p> <p>14 fair statement?</p> <p>15 A Fair statement.</p> <p>16 MR. SOH: All right. I just wanted</p> <p>17 to clear that up. You -- let me show you</p> <p>18 the police report real quick. I'm going</p> <p>19 to mark -- what's next? -- Exhibit 5 --</p> <p>20 MR. EVANS: No. 7, I think.</p> <p>21 MR. SOH: Mark the police report as</p> <p>22 Exhibit 7 to your deposition. This is</p> <p>23 Detective Satterfield's supplemental</p> <p>24 report from the -- I'm sorry -- I'm just</p> <p>25 noting that the --</p>
<p>62</p> <p>1 Do you believe that you or the Medical</p> <p>2 Examiner's Office actually took possession of</p> <p>3 the prescription medication at Richard Smith's</p> <p>4 home on the day of his suicide?</p> <p>5 A The best I would remember, yes.</p> <p>6 Q Okay. But there is no documentation</p> <p>7 in your file or anywhere else in the Medical</p> <p>8 Examiner's Office that says there are three --</p> <p>9 we took three bottles of Neurontin and there</p> <p>10 were 18 pills left in there?</p> <p>11 A No. I'm just going on standard</p> <p>12 protocol.</p> <p>13 Q Okay.</p> <p>14 A But there are occasions when we have</p> <p>15 left them on the scene.</p> <p>16 Q Okay. But -- so you're saying that</p> <p>17 standard protocol in the Medical Examiner's</p> <p>18 Office would be that you would take possession</p> <p>19 of all prescription medication at the scene?</p> <p>20 A Yes, sir.</p> <p>21 Q But there's no paper trail or any</p> <p>22 other documents in your possession that showed</p> <p>23 that you actually took possession or how many</p> <p>24 pills were left in those prescription bottles?</p> <p>25 A No, sir.</p>	<p>64</p> <p>1 MR. EVANS: Are you just marking --</p> <p>2 are you marking the whole thing or just</p> <p>3 his report? Because now you put that --</p> <p>4 yeah, okay.</p> <p>5 (EXHIBIT NO. 7 WAS MARKED FOR</p> <p>6 IDENTIFICATION.)</p> <p>7 BY MR. SOH:</p> <p>8 Q All right. I'm going to be marking</p> <p>9 Detective Satterfield's supplemental report</p> <p>10 from the Metropolitan Nashville Police</p> <p>11 Department on the Smith suicide. I want to</p> <p>12 mark that exhibit.</p> <p>13 I just want -- I'm highlighting a couple</p> <p>14 sentences in there, okay. And just read that</p> <p>15 highlighted section.</p> <p>16 A Ms. Smith states that about one year</p> <p>17 ago the victim had hip and knee replacement</p> <p>18 surgery and has been in constant pain since</p> <p>19 that time. On 3/1/04 the victim mentioned to</p> <p>20 his daughter Cindy Smith that he might take his</p> <p>21 own life.</p> <p>22 Q That's virtually identical to your</p> <p>23 narrative summary, isn't it?</p> <p>24 A Do you mean in the report?</p> <p>25 Q In the narrative summary from your</p>

<p>65</p> <p>1 report.</p> <p>2 MR. EVANS: From the report of</p> <p>3 investigation?</p> <p>4 THE WITNESS: Yeah.</p> <p>5 BY MR. SOH:</p> <p>6 Q From your report. Okay.</p> <p>7 Is it likely that you got that information</p> <p>8 from Detective Satterfield?</p> <p>9 A Yes. I said that.</p> <p>10 Q I'm just -- clean it up.</p> <p>11 A Sorry.</p> <p>12 Q I've just got to clear that up. And</p> <p>13 just -- put that away. Yeah. Back to -- if we</p> <p>14 can, I'd like to construct a quick little</p> <p>15 timeline from you. Go to the -- this -- this,</p> <p>16 ME report form. It talks about the times of</p> <p>17 all that situation in your file.</p> <p>18 Fair to say that the police were called</p> <p>19 about Richard Smith's suicide about 5:45 a.m.?</p> <p>20 A Yes, sir.</p> <p>21 Q Medical examiner was notified</p> <p>22 5:53 a.m.?</p> <p>23 A Yes, sir.</p> <p>24 Q And that's also on your notes?</p> <p>25 A Yes, sir.</p>	<p>67</p> <p>1 Q You spoke to Mrs. Smith approximately</p> <p>2 two hours after the suicide was phoned in,</p> <p>3 correct?</p> <p>4 A I spoke to her at around 7:35.</p> <p>5 Q And the suicide was phoned in to the</p> <p>6 police at 5:45, so a little bit under two</p> <p>7 hours?</p> <p>8 A Yes, sir.</p> <p>9 Q What was Mrs. Smith's state of mind</p> <p>10 when you spoke to her about a little bit under</p> <p>11 two hours after --</p> <p>12 A I'd say --</p> <p>13 MR. EVANS: Objection to form.</p> <p>14 COURT REPORTER: One moment. When</p> <p>15 you spoke to her --</p> <p>16 BY MR. SOH:</p> <p>17 Q Let me rephrase the question.</p> <p>18 What was Mrs. Smith's state of mind or</p> <p>19 emotional state about an hour and 50 minutes</p> <p>20 after the suicide was phoned in to the</p> <p>21 Nashville Police?</p> <p>22 MR. EVANS: Objection to form. Now</p> <p>23 you can go ahead and answer.</p> <p>24 A I would say she was distraught, more</p> <p>25 in shock.</p>
<p>66</p> <p>1 Q Okay. You got to the scene, you</p> <p>2 said, at -- you got to the scene at 6:40 a.m.?</p> <p>3 A Yes, sir.</p> <p>4 Q And then you spoke to Mrs. Smith at</p> <p>5 7:35 a.m.?</p> <p>6 A Yes, sir.</p> <p>7 Q And three minutes later you left the</p> <p>8 scene at 7:38?</p> <p>9 A Yes, sir.</p> <p>10 Q All right. Fair to say that I think</p> <p>11 you had -- what was Mrs. Smith's emotional</p> <p>12 state when you spoke to her two hours after her</p> <p>13 husband's suicide?</p> <p>14 A She was more like in shock.</p> <p>15 MR. EVANS: I was going to say</p> <p>16 objection to form. You said two hours. I</p> <p>17 think it was one hour.</p> <p>18 BY MR. SOH:</p> <p>19 Q No. You spoke to Mrs. Smith at 7:35?</p> <p>20 MR. EVANS: Oh, you're right, I'm</p> <p>21 sorry. I apologize.</p> <p>22 MR. SOH: Let me rephrase and clear</p> <p>23 that up.</p> <p>24 MR. EVANS: I apologize.</p> <p>25 BY MR. SOH:</p>	<p>68</p> <p>1 BY MR. SOH:</p> <p>2 Q Okay.</p> <p>3 A Best I remember.</p> <p>4 Q Okay. Let me just go over this very</p> <p>5 quickly. Assume with me that Mrs. Smith got</p> <p>6 this information wrong about her husband's hip</p> <p>7 and knee replacement.</p> <p>8 You don't have a copy of the medical</p> <p>9 records, but assume with me that that</p> <p>10 information is wrong, that he did not -- let me</p> <p>11 start again and rephrase the question.</p> <p>12 Assume with me that Mrs. Smith told either</p> <p>13 you or Detective Satterfield that a year ago</p> <p>14 her husband had hip and knee replacement.</p> <p>15 Okay?</p> <p>16 A Okay.</p> <p>17 Q Assume with me that the actual hip</p> <p>18 and knee replacement was -- occurred in 1993,</p> <p>19 1996, and 1998.</p> <p>20 A Whatever you say.</p> <p>21 Q Assume with me. Is that</p> <p>22 understandable, given her emotional state?</p> <p>23 A Sure.</p> <p>24 Q That she made a mistake about the</p> <p>25 knee and hip surgery?</p>

<p>69</p> <p>1 A Yes, sir.</p> <p>2 Q Assume with me that Mr. Smith had</p> <p>3 back surgery about a year before he committed</p> <p>4 suicide. All right?</p> <p>5 A All right.</p> <p>6 Q Is that error understandable, given</p> <p>7 her emotional state?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. It doesn't have any impact on</p> <p>10 your investigation?</p> <p>11 A It can -- no, sir.</p> <p>12 Q Okay. Understandable given the fact</p> <p>13 that she was distraught and in shock?</p> <p>14 A I understand.</p> <p>15 Q Okay. Would you be surprised if</p> <p>16 there are any other mistakes that she gave you</p> <p>17 about a factual recitation, given her emotional</p> <p>18 state that day?</p> <p>19 MR. EVANS: Objection to form.</p> <p>20 BY MR. SOH:</p> <p>21 Q Go ahead and answer.</p> <p>22 A No, I would not be surprised.</p> <p>23 Q Very common in the case of suicides,</p> <p>24 where simple ordinary facts get confused by the</p> <p>25 widow of a suicide victim?</p>	<p>71</p> <p>1 I walked out to the car and then documented my</p> <p>2 time that I spoke to them.</p> <p>3 Q Okay.</p> <p>4 A It was a -- brief. I don't know if</p> <p>5 it was three minutes. I don't know if it was</p> <p>6 five minutes, but it was very brief.</p> <p>7 Q Okay. In your brief -- and I just</p> <p>8 want to clear this up, partly because I want my</p> <p>9 voice on the record instead of Cedric's voice</p> <p>10 on the record, okay.</p> <p>11 But in your brief conversation with</p> <p>12 Mrs. Smith and her daughter. Okay?</p> <p>13 A Yes.</p> <p>14 Q Is it fair to say that you simply</p> <p>15 confirmed that there was a reference that</p> <p>16 Mr. Smith had threatened suicide at some point</p> <p>17 in the past?</p> <p>18 A That's fair to say, yes, sir.</p> <p>19 Q And that you also talked to them</p> <p>20 about whether or not they wanted an autopsy</p> <p>21 performed?</p> <p>22 A That would be my primary focus.</p> <p>23 Q Is there anything else that you can</p> <p>24 recall as we sit here today that you spoke to</p> <p>25 the Smith family about in your brief</p>
<p>70</p> <p>1 A Oh, yeah.</p> <p>2 Q Okay. Fair enough. Is there</p> <p>3 anything unusual about a suicide victim's</p> <p>4 family declining an autopsy?</p> <p>5 A No, sir.</p> <p>6 Q How often does that happen? About</p> <p>7 half the time; a little bit over half the time?</p> <p>8 A No. About a third of the time.</p> <p>9 Q About a third of the time?</p> <p>10 A Even if that much. It's -- they're</p> <p>11 such in shock, and we're giving it to them --</p> <p>12 at the scenes, especially, they don't think</p> <p>13 about that.</p> <p>14 Q Okay.</p> <p>15 A But sometimes if they're really</p> <p>16 religious they'll bring that up, and this</p> <p>17 family was.</p> <p>18 Q Okay. But you don't read the refusal</p> <p>19 for an autopsy one way or the other with</p> <p>20 regards to an investigation, do you?</p> <p>21 A I don't. I just document their</p> <p>22 objection. On this case.</p> <p>23 Q In your three-minute conversation</p> <p>24 with Mrs. Smith and her daughter --</p> <p>25 A I just documented the time that I --</p>	<p>72</p> <p>1 conversation?</p> <p>2 A I don't remember. I know I told them</p> <p>3 God bless you.</p> <p>4 Q Okay. That's the -- those are the --</p> <p>5 the two things are the main things that you</p> <p>6 remember?</p> <p>7 A Talked to them about the autopsy and</p> <p>8 usually correlate the events and --</p> <p>9 Q Okay. Give me a minute or two to</p> <p>10 clean up.</p> <p>11 A Take your time.</p> <p>12 MR. SOH: I've got to go to the</p> <p>13 restroom.</p> <p>14 MR. EVANS: Okay.</p> <p>15 MR. SOH: But give me a second to go</p> <p>16 over my notes, and I think I'm done.</p> <p>17 MR. EVANS: You don't want to pass</p> <p>18 him to me?</p> <p>19 MR. SOH: Let me hold onto him.</p> <p>20 Let's go off the record.</p> <p>21 THE VIDEOGRAPHER: Going off the</p> <p>22 record at 10:17.</p> <p>23 (BREAK WAS TAKEN AT 10:17 A.M.)</p> <p>24 (BACK ON THE RECORD AT 10:23 A.M.)</p> <p>25 THE VIDEOGRAPHER: Back on record.</p>